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July 23, 2002

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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**VIA HAND DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, D.C. 20002

Re: Notice of *Ex Parte* Communications re: iBiquity Digital Radio, Inc.  
MM Docket No. 99-325

Dear Ms. Dortch:

On July 19, 2002, I forwarded to Ms. Susan Eid, legal advisor to Chairman Powell; Ms. Catherine Bohigian, legal advisor to Commissioner Martin; Ms. Stacy Robinson, legal advisor to Commissioner Abernathy; and Ms. Alexis Johns, legal advisor to Commissioner Copps a copy of the speech delivered by Assistant Commerce Secretary Nancy Victory before the Media Institute, July 18, 2002.

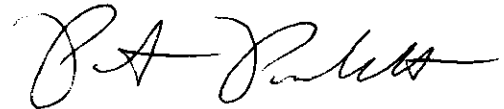
In the notice of the attached speech, I commented to the legal advisors that in light of the strong interest of the broadcast industry in moving forward on both FM and daytime AM, as demonstrated in their July 18, 2002 AM reply comments, iBiquity hoped that the Commission would act in early September to endorse IBOC and authorize interim AM daytime and FM IBOC operations.

I also noted that Assistant Secretary Victory in her Media Institute speech had remarked that: "The FCC is currently reviewing comments on the IBOC standard and tests conducted in the FM and AM bands. If its review confirms positive results, the Commission could move forward quickly with approval of IBOC and the adoption of service rules. Given the importance of this development, I would hope that the Commission would act this fall in order to ensure the introduction of digital radio broadcasting early next year."

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Under Section 1.1206(b)(2) of the Commission's Rules, I am submitting an original and one copy of this letter and speech to the Secretary.<sup>1</sup>

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Paoletta', with a stylized, cursive script.

Patricia Paoletta

CC: Susan Eid  
Catherine Bohigian  
Stacy Robinson  
Alexis Johns

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<sup>1</sup> 47 C.F.R. §1.1206(b)(2) (2001).

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**Subject:** FW: Media Institute Speech -- 07-18-

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**Keynote Address by  
Nancy J. Victory  
Assistant Secretary for Communications and Information  
at the Media Institute  
Washington, D.C.  
July 18, 2002**

**THE QUEST FOR A NEW GOLDEN AGE:  
THE CHALLENGES OF BUILDING A DIGITAL MASS MEDIA**

Thank you for the opportunity to appear before the Media Institute. As the Assistant Secretary of Commerce for Communications and Information and the head of the National Telecommunications and Information Administration, I am delighted to appear before an organization that focuses on the combination of communications and information for the purpose of delivering mass media services to the American public. The Media Institute has performed an important role in the study of our nation's media and the formulation of public policy.

In many respects, I am literally and figuratively a child of the first Golden Age in our country's electronic mass media. My father started out many years ago in the studio-to-theater distribution business. After stints with CBS and NBC in the early days of television, he formed his own program syndication company. It was an exciting time in which he partnered with game show legends Mark Goodson and Bill Todman and began building his portfolio of programs that included Concentration and Match Game, and then such shows as Hill Street Blues, St. Elsewhere, and WKRP in Cincinnati. He still likes to talk about his first meeting with that "skinny Irish kid with bad teeth" who later - after good food and good dentistry - became known as "007" - Pierce Brosnan.

As a young girl, I was probably the only kid on my block under parental orders to watch TV! I served as my dad's personal Nielsen survey. He had me watch shows and write down what I liked and what I didn't like. I was an audience sampling of one - but one that he trusted. While my contemporaries were taken to amusement parks for fun, I would show up at the NATPE Convention. In a very small way, I was part of the great adventure in the time when television moved from a novelty to a mainstay.

As a "young" government official, I am excited about the prospects for a new Golden Age as the mass media undertakes the transition from yesterday's analog technology to tomorrow's digital world. The challenge of making the potential a reality is not trivial in nature. We are not looking at minor changes or modest improvements. Indeed, the DTV transition represents a fundamental transformation of our television system, the first since the tube invaded American homes over a half century ago. For its part, the move from analog radio broadcasting to digital AM and FM through spectrum efficient "in band" solutions literally promises to spin digital gold out of analog straw by making more efficient use of the licensed spectrum.

**CORPORATE RESPONSIBILITY, COMMITMENT AND VISION**

In these troubled times for the communications industry, it's hard to look beyond today's practical problems and invest in an uncertain future. A starting point in moving ahead to a better tomorrow is ensuring corporate responsibility. President Bush has spoken directly and forcefully about the need to ensure that investor confidence is restored and that cooking the books cannot reoccur. Secretary Evans also has spoken out about the need for oversight and safeguards to ensure that the American public can have confidence in the conduct of American companies. As the communications advisor to the President and Secretary Evans, let me leave no doubt that corporate responsibility is our top priority. Without investor confidence, any dreams of a new golden age for mass media will quickly evaporate.

The path to a digital tomorrow also requires corporate commitment and management vision. In a time when there is a focus on the next quarter's results, it is understandably hard to focus on investments that won't pay off until a seemingly distant future. Yet, I have great confidence that persons of vision will make the commitment necessary to make DTV and digital radio a reality. Let me give you my thoughts on where things stand and what's needed to be done.

### **THE GOAL OF PROMOTING NEW ADVANCED SERVICES**

In his recent address to the nation's "high tech" leaders, President Bush stated his commitment to facilitating the delivery of advanced services to the American public. Similarly, Secretary Evans has made clear that promoting advanced services and ensuring efficient spectrum management are among the highest priorities for the Department of Commerce. As head of NTIA, my mission is to ensure sound policies that are designed to achieve these goals.

The promise of DTV compels our support for its realization. Simply stated, digital television will introduce our citizens to a host of new, groundbreaking services:

- HDTV, with its dramatic improvement in sound and picture quality, is a wholly new viewing experience - one that will bring the "theater into the home;"
- The possibility of multiple programs of conventional TV quality via a single 6 MHz channel could open a new chapter for broadcasters and other program providers;
- The development of advanced data and interactive offerings that presage a merger of the television set and the computer - not only "talking back" to your television, but using it as a gateway to and from the world wide web;
- And, efficient use of the radio waves so as to effectively create critically important new "spectrum homes" for next generation mobile services in bands that are prime real estate for such wireless offerings.

Given these diverse and exciting possibilities for the public and the mass media industry, there is a pressing need to eliminate the "if" in the commitment to DTV and to accelerate the "when" of its advent.

## **THE DTV TRANSITION CHALLENGES**

The challenges of making digital broadcasting a reality are numerous and complex. The chicken and egg conundrum is a real threshold hurdle. There is an inextricable linkage among sets, programming, transmission systems and consumer needs. Not surprisingly, entities are reluctant to leap first into the great unknown without assurances that others will follow the lead. Consequently, the combined and coordinated effort of manufacturers, broadcasters, cable television operators, satellite providers and programmers are needed to allay concerns and overcome obstacles.

The specific DTV transition problems are fairly well documented:

- **There's DTV Sets** - At the very time when we are trying to encourage the shift to digital, there are over 25 million analog-only sets being sold annually, versus less than 2 million DTV sets. Thus, the challenge of DTV transition is being exacerbated rather than ameliorated - we're essentially digging ourselves a bigger hole.
- **There's Programming** - Content can certainly drive demand, but who will buy sets if there is a paltry handful of programs delivered in HDTV? Several networks have begun to provide a limited amount of HDTV fare, but more needs to be available to be a meaningful draw to consumers.
- **There's Copyright Protection** - Intellectual property rights are a major stumbling block in spurring content availability and a digital rights management solution is crucial.
- **There's Cable Compatibility** - Cable is a primary platform for delivering broadcast and other programming; if there is no cable compatibility, a huge percentage of American households (roughly 70 percent) will have no incentive to migrate to DTV. This issue is one of the major problems identified in DTV discussions.
- **There's Cable Carriage** - In the transition, broadcast carriage rights need to be resolved to ensure stability and encourage the transition. According to the General Accounting Office, only 15 percent of DTV stations on air have some cable carriage of their signal.
- **Finally, there's Consumer Awareness** - The consumer ultimately rules the roost, but without information about options, only uninformed buying decisions will occur. Industry must generate more awareness about HDTV and what components are necessary to receive it.

## **GOVERNMENT TEAMWORK TO ENCOURAGE INDUSTRY TEAMWORK**

In order to overcome the significant transitional hurdles for DTV, there is a compelling need for government teamwork to encourage industry teamwork. Fortunately, almost every one taking the field in the effort to bring DTV to the public has joined the team. Under the leadership of House Energy and Commerce Committee Chairman Billy Tauzin and FCC Chairman Michael Powell, the Congress and the Federal Communications Commission have been working long and hard to achieve progress.

Chairman Tauzin has held a series of round tables that bring together industry representatives to discuss various DTV challenges. These off-the-record gatherings have provided DTV stakeholders an environment where the tough issues can surface and be worked out - something less likely to occur in a different setting. As a result of these talks, progress has emerged on a number of issues. For example, on the issue of digital copyright, general consensus has developed for the broadcast flag, a technology that protects digital TV programs from being illegally copied and redistributed on the Internet. Chairman Tauzin has underscored his preference for industry resolving the outstanding issues on their own, but has indicated that his staff is working on possible DTV legislation to be introduced this fall to address areas where industry has not reached consensus.

FCC Chairman Michael Powell is also strongly advocating for private sector-led progress in DTV. In April, he outlined a voluntary plan in which he called upon the major networks to create more compelling digital content, equipment manufacturers to produce more television sets with digital tuners, and broadcasters, cable operators and satellite providers to make digital content more accessible to consumers. The Powell initiative contains specific goals and timetables. The plan effectively takes away the "who goes first" dilemma because it asks all groups to go forward simultaneously.

The industry response to Chairman Powell's plan has actually been quite impressive. By May, almost all sides pledged to do their part on the plan, realizing that by giving a little, there is a lot to gain when everyone is committed to reach these goals together. I applaud broadcasters, cable operators, satellite providers and programmers who have responded graciously and with real commitments.

The sole source of static in the program - the sole sector not to sign on to the Powell plan - is the consumer electronics industry. Its recent DTV tuner "proposal" contained many conditions. Accordingly, I join Chairman Powell in encouraging the consumer electronics industry to reconsider its position and to join the DTV team. I also join Chairman Powell in commending Zenith for its decision to support a phased-in tuner requirement without a host of pre-conditions.

## **NTIA EFFORTS TO PROMOTE DTV**

At NTIA, our current DTV activities have fallen into three general areas: (1) seeking to ensure a sound spectrum management approach for the DTV transition; (2) working for common global standards for DTV; and, (3) working with Congress and the FCC to promote DTV deployment.

**A Sound DTV Transition.** The transition of broadcasters from their existing analog allocations to the new digital allocations is a complex financial, technical and legal undertaking. We want the move to happen as soon as possible, but not under conditions that leave substantial doubt about how and when the existing television spectrum will be converted to new uses. The need for an orderly transition that minimizes uncertainty outweighs the need for a race to the auction block. Accordingly, Secretary Evans called for the FCC to postpone the scheduled June 19th auctions in the Upper and Lower 700 MHz bands to later dates that would provide the time necessary to resolve existing uncertainties about clearing the spectrum and deploying new services.

The broadcast transition raises nettlesome issues on the ground rules and appropriate incentives for timely and efficient band clearing. The FCC's plan to promote market-based negotiations helps encourage industry efforts. However, I would be interested in hearing from interested parties about

their thoughts on any other steps that might be undertaken. My door is open to persons with new or additional ideas.

**Global Standards for DTV.** As part of President Bush's "One Hemisphere" initiative to create common markets for North America and our South American neighbors, NTIA has worked with the Advanced Television Systems Committee (ATSC), the State Department, and the International Trade Administration of the Commerce Department to promote the ATSC DTV transmission standard throughout the Western Hemisphere. We realize that developing a single standard in the Americas is key to supporting our manufacturing and technology industries as well as to supporting employment. We will continue efforts to realize a common hemispheric standard for DTV.

**Working with the Congress and FCC.** My NTIA team and I will be working diligently to support FCC and Congressional efforts to smooth the path to DTV. In particular, I will be taking a hard look at how to facilitate the band clearing process. Clearing broadcast spectrum in the 700 MHz band is vital to freeing up more spectrum for advanced wireless and public safety services and for completing the efficient "packaging" of digital broadcasters into the 2-51 channel allocations. Consistent with my teamwork theme, we will be seeking to complement and supplement, rather than duplicate or replicate, the ongoing good works of Chairman Tauzin and Chairman Powell.

## **DIGITAL RADIO**

The radio broadcasting industry, for its part, has worked hard to develop a consensus "in-band on-channel" or "IBOC" digital technology. Radio broadcasters will be able to improve audio quality, enhance reception, and offer wireless data services. Significantly, IBOC is designed to operate simultaneously with the current analog transmission and within the parameters of the existing spectrum allocation. Accordingly, radios currently operating on analog signals may continue to do so while IBOC-based receivers can receive both analog and digital stations, and current station locations on the dial can remain intact.

The FCC is currently reviewing comments on the IBOC standard and tests conducted in the FM and AM bands. If its review confirms positive results, the Commission could move forward quickly with approval of IBOC and the adoption of service rules. Given the importance of this development, I would hope that the Commission would act this fall in order to ensure the introduction of digital radio broadcasting early next year.

## **DIGITAL SPECTRUM BENEFITS**

The transition to digital coupled with band clearing of the UHF channels will have the added public benefits of creating new spectrum homes to satisfy advanced mobile services and public safety communications needs. The spectrum being vacated by television broadcasters is prime spectrum "real estate" for next generation mobile services. *Its propagation characteristics are ideal for 3G and important uses by police, fire and emergency preparedness organizations.*

In essence, the public windfall from the DTV transition is new and improved broadcasting services coupled with new and improved mobile services. It is truly a win-win outcome for the American public. As the manager for government spectrum and the President's advisor on communications policy, NTIA has a major stake in helping to ensure that the DTV transition is timely, efficient and

effective.

### **A NEW GOLDEN ERA**

We have within our collective grasp the means to ensure a new golden era in broadcasting. It will take hard work, good will and, above all, teamwork to achieve our goal. However, the rewards are too great and the risks of failure too severe to demand anything less from our industries and our government. I look forward to working with you in this grand adventure into the next generation of mass media services to the American public.

